

**NATIONAL ADVISORY COMMITTEE
TO THE U.S. REPRESENTATIVE TO THE
NORTH AMERICAN COMMISSION FOR ENVIRONMENTAL COOPERATION**

NAC Advice No. 98-1

Concerning the Transition in the Leadership of the CEC Secretariat

Noting the recent resignation of Victor Lichtinger as Executive Director of the CEC, as well as the considerable and on-going attention given by the press and the public to that resignation and the events surrounding it, the NAC advises the U.S. Representative as follows:

First, Victor Lichtinger deserves substantial credit for his leadership in helping establish the CEC Secretariat as a proactive, environmentally-oriented institution with a dedicated and high-caliber staff. Upon his exit, he merits public commendation and thanks. Similarly, the NAC fully endorses the decision of the Council to appoint Janine Ferretti as interim Executive Director. Ms. Ferretti's track record as a CEC Director, as well as her prompt and professional handling of the current transition, demonstrate the strength of her dedication and skills.

Second, the abrupt changes in the leadership of the CEC Secretariat present both an opportunity and a challenge to the United States and to the CEC. The opportunity is to establish new top management at the Secretariat with the skills and drive to take the CEC beyond its start-up phase and into a period of continuing growth in the CEC's strength and effectiveness. The challenge is to do so in a manner that is smooth and timely. In particular, as a matter of urgency, the U.S. Representative should:

- Consider it a matter of highest priority to complete the trilateral appointment of new Secretariat leadership during or prior to the fifth regular session of the CEC Council scheduled to take place in Merida, Mexico in June 1998;
- Seek the appointment of an outstanding new executive director in whom is combined the following essential qualities:
 - The vision to develop an imaginative and mature strategy for the continued development of the CEC as a new breed of international environmental institution;
 - The managerial abilities to take the CEC Secretariat to new levels of professionalism and effectiveness;
 - The inclination and diplomatic skill to maintain the appropriate independence of the CEC Secretariat, and to bring an effective level of initiative to the work of the Secretariat, balancing the need to maintain the full support and engagement of the entire CEC Council with the need for a CEC Secretariat capable of stimulating new levels of regional cooperation and environmental improvement;
 - The demonstrated commitment to open and participatory processes required to fulfill the CEC's mandate for transparency and public involvement; and,

- The personal integrity and professional accountability to enjoy the consistent trust of the CEC Council and the public at large.

The NAC further notes that this period of institutional transition coincides both with a formal evaluation by the Council of the CEC's performance, and with a set of on-going negotiations over the scope and direction of some of the CEC's core activities. We urge the U.S. representative to resist any inappropriate linkage between the appointment of a new Executive Director and other issues before the Council. In particular, the U.S. Representative should insist on completing the formal review process now underway under NAAEC Article 10(1)(b) prior to any discussion of significant adjustments in the CEC's mode of operation.

Finally, the NAC is disturbed by the proliferation of press reports that contain substantial inaccuracies about the events surrounding Victor Lichtinger's resignation. These reports have the potential to damage the CEC as an institution, and should be confronted directly in word and in deed by the U.S. Representative and the other members of the Council. The members of the NAC--both individually and in our role as an advisory committee--have had frequent opportunities to observe and interact with the CEC and with all three governments represented on the CEC Council. We find no evidence to support irresponsible claims that Victor Lichtinger was forced out in a U.S.-led attempt to limit the proactive environmental orientation of the CEC Secretariat. On the contrary, while recognizing that the CEC must work hard to continue to sharpen its mission and effectiveness, the NAC believes the U.S. government has often been in the lead in helping establish a CEC Secretariat with the independence, vigor, and orientation to pursue its environmental mandate. We commend the U.S. Representative in this regard.

March 6, 1998

San Diego, CA

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NAC Advice No. 98-2

Public Participation at Regular Sessions of the CEC Council

The regular sessions of the CEC Council provide an important opportunity for public participation in the CEC's governance, and for direct dialogue between the Council members and ordinary citizens interested in CEC affairs. The NAC notes, however, the need for improvements in the structure and form of public participation in regular Council sessions, and recommends that the U.S. Representative seek changes to be implemented at the next Council meeting in Merida, Mexico, this coming June.

Changes in the approach to public participation at regular Council sessions should be devised according to the following principles:

- The procedures should balance the need for high-quality public participation focussed on current or proposed CEC activities with the need for a dialogue that is unrestricted and open to a broad public;
- The procedures should ensure both an opportunity for maximum appropriate public observation of Council deliberations and an adequate opportunity for interactive dialogue between the public and the Council;
- The procedures should ensure that all major types of stakeholders in the CEC process have an opportunity to be adequately represented, while especially encouraging participation by individuals and organizations having an active and on-going interest in the CEC; and
- The procedures should be transparent, and administered with enough lead-time and outreach to ensure that they are fair in both substance and appearance.

In order to achieve the foregoing, a variety of imaginative changes should be considered, including, for example:

- Opening portions of the Council's deliberations to public observation;
- Allowing NAC, GAC, and JPAC members to observe portions of the Council's deliberations (including portions not open to the public, subject to established confidentiality requirements);

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NAC Advice No. 98-3

CEC Environment and Trade Agenda: Strategic Vision and Content

The complex relationship between environment and trade is a central component of the CEC's core mission. Since its inception, the CEC has had an opportunity, as well as a responsibility, to demonstrate leadership in improving our understanding of the environment and trade nexus in North America. The NAC has consistently supported a CEC environment and trade agenda that constructively and objectively promotes a balanced analysis of the positive and negative environmental effects of regional trade liberalization. In addition to encouraging a balanced approach in the CEC's environment and trade program, the NAC has emphasized in previous advice to the U.S. Representative that the program should integrate environment and trade policymaking, support the CEC Secretariat's independence, ensure full stakeholder involvement, and maintain an environmental orientation. (See NAC Advice No. 97-7).

In view of these earlier comments and recent CEC activity in this area, the NAC notes its concern that the CEC's environment and trade work program is presently unable to achieve its full potential due, in part, to the absence of an overall strategic focus. The NAC believes the current program contains several interesting and potentially important project proposals. Nevertheless, the lack of an underlying strategic vision to guide the environment and trade agenda needlessly impairs the ability of the CEC to contribute effectively to further progress in the environment and trade policy interface. Accordingly, the NAC advises the U.S. Representative to work towards the development of an improved strategic foundation for the CEC environment and trade agenda comprising the following elements:

- **Prioritize, Limit Duplication, Maximize CEC Strengths:** Further progress on prioritizing and focusing the CEC environment and trade program is required in order to avoid unnecessary duplication of activities with other private and public sector institutions, and in order to maximize the CEC's "comparative advantage." The results of priority-setting and an identification of areas in which further CEC involvement is desirable should, at minimum, constitute the starting point for future strategic planning discussions.
- **Strategic Development:** The development of a strategy in the environment and trade area should be incorporated directly into the environment and trade program as a permanent functioning component of the work program. New and additional project proposals should be vetted through the strategic process to thoroughly assess their potential "value-added" to the CEC's environment and trade agenda. A comprehensive strategic business plan specifically applicable to the environment and trade area is long overdue and should be undertaken immediately.
- **Resources:** The NAC recommends that additional resources be made available and explicitly dedicated to the development of an overall CEC environment and trade strategy. If necessary, resources planned for future projects should be limited in order to devote more resources to strategic planning.

Content of the Work Program:

In addition to strengthening the strategic planning aspects of the environment and trade work program, the NAC advises the U.S. to pursue a program that:

- Continues to support the CEC's current NAFTA Effects project. The NAC is encouraged by continuing reports of U.S. support for the project. Nevertheless, the Committee wishes to emphasize its ongoing concern and collective disappointment with the length of time it has taken the CEC to come forward with its initial studies of NAFTA's environmental effects. The NAC also remains concerned about the lingering doubts that have been raised regarding the willingness of the NAAEC parties to publish the results of the NAFTA Effects project. As a consequence, the NAC reiterates its previous advice that the results of the NAFTA Effects project, including the methodology and case studies, be fully published in an open and transparent manner to ensure adequate public participation. (See NAC Advice 97-4, 97-7). The NAC also advises that both the methodology and case studies be peer reviewed and encourages the CEC to enlist the services of independent outside experts in the peer review process. Finally, the NAC wishes to communicate to the U.S. Representative a sense of urgency regarding the CEC NAFTA Effects project. The Committee notes with mounting frustration that the development of a methodology to study the environmental effects of NAFTA has simply taken too long and encourages the U.S. to proactively pursue an acceleration of the current process by all reasonably available means.
- Promotes more comprehensive strategic planning in the "Green Goods" project. The NAC is cautiously optimistic that the proposed project has the potential to encourage environmental cooperation and facilitate trade between the NAAEC parties. Nevertheless, the NAC is mindful that the project as proposed to date appears to be showing signs of a lack of strategic groundwork preparation that may eventually affect the ultimate success of a promising proposal. Specifically, the project appears to encompass a broad spectrum of activities from eco-tourism to live animal trade with no clear focus on the relationship between the areas under consideration and specific project goals. The NAC notes with concern the apparent emphasis of the project on the trade in species and a recent report that an aspect of the program may seek the de-listing of certain fauna included in the Convention on International Trade in Endangered Species (CITES).
- Includes a focus on investment issues. The NAC reiterates its call for significant attention in its environment and trade program to regional investment flows and investment policies, and to the operation of the NAFTA investment provisions. (See NAC Advice No. 97-7).
- Fulfills the CEC Council's mandatory duties. The NAC also recalls its advice that urges the environment and trade program to give priority to projects that help the CEC Council fulfill its mandatory duties as set forth in NAAEC Article 10. (See NAC Advice No. 97-7).

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NAC Advice No. 98-4

CEC Budget: Presentation and Timing

The CEC's annual budget is an important document that provides valuable information on the CEC's activities to interested members of the public, advisory committees, and the Council. The NAC acknowledges that the quality of the information made available in the CEC budget has steadily improved each year, and the NAC commends the efforts of the CEC Secretariat and the NAAEC parties in facilitating this ongoing process. At the same time, the NAC is keenly aware that information gaps and production delays continue to exist. Specifically, the NAC believes that the CEC budget process will benefit from increased transparency, greater attention to detail, and strict adherence to an earlier release date each year. As a result, the NAC advises the U.S. Representative to promote a CEC budget that:

- Provides a significantly enhanced level of detail in its overall presentation and in the "Specific Obligations" section of the budget in particular. In general, the CEC's program and budget should represent a comprehensive description of every CEC activity including the amount of funding for ongoing projects continued from the previous year's budget. Every project budget should include a specific breakdown of all key project activities and the funds allocated to each. In addition, specific information regarding the level of staff time applied on a project-by-project basis should be presented.
- Summarizes budget expenditures and staff time allocated between CEC activities mandated as obligatory by the NAAEC and non-obligatory program activities.
- Improves transparency for the Council and all interested parties. The NAC recommends that, in addition to preparing a budget document for wide public distribution, the Secretariat be asked to produce a more detailed version of the budget that would be made available to the Council, the advisory committees, and individuals seeking such further information. The detailed budget might include, for example, specific internal documentation produced by project managers relating to their individual projects.
- Is prepared at a significantly earlier date in the calendar year. The NAC supports the current U.S. position that the timing of the budget process should be advanced significantly. The NAC is also supportive of the U.S. position that a "working draft" of the 1999 CEC budget be prepared and distributed at the fifth regular session of the Council in Merida, Mexico in June 1998. The working draft budget should be for discussion purposes only with the aim of improving the transparency of the budget process. The working draft should be made available to the Council, JPAC, and the advisory committees of the NAAEC parties.

In urging these reforms, the NAC recognizes the need for reaching an improved balance between the role of the Secretariat and the role of the Council in the budget drafting process, which in past years has suffered from insufficient and sometimes tardy consultation by the Secretariat with Council members and their staffs. Nevertheless, the NAC notes that the architecture of the NAAEC, and specifically Art. 11:6, grants to the Secretariat the initiating role in devising the CEC's cooperative work program. The

NAC believes the healthy operation of the CEC as a whole requires a continued respect for the Secretariat's programmatic initiative, even as changes in the Secretariat's *modus operandi* to improve balance and coordination with the Council are considered.

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